

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 1-26-05.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The FCE on 4-19-04 was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services. The amount due the requestor for the medical necessity issues is \$294.00.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 3-8-05 the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The work hardening program from 3-1-04 through 3-12-04 was denied by the carrier with "E" – Entitlement to benefits. Per a benefit dispute agreement on 8-12-03 this injury was adjudicated and the carrier agreed that the injury of 5-28-03 was compensable. Recommend reimbursement Per Rule 134.202 (e) (5) (C) (ii) of **\$4,096.00**.

The work hardening program from 3-31-04 through 4-8-04 was denied by the carrier with "V" – Unnecessary treatment with peer review. These services were preauthorized, therefore this is an incorrect denial code. In accordance with Rule 134.600 (h) (4), the requestor provided a copies of the preauthorization letters dated 3-02-04 and 3-30-04 for 4 weeks of a work hardening program. Rule 133.301 (a) states "the insurance carrier shall not retrospectively review the medical necessity of a medical bill for treatments (s) and/or service (s) for which the health care provider has obtained preauthorization under Chapter 134 of this title." There will be a Compliance and Practices referral for the insurance carrier because of incorrect denial of preauthorized services. **Reimbursement is recommended in the amount of \$2,048.00 in accordance with Rule 134.600 (b)(1)(B).**

This Finding and Decision is hereby issued this 4th day of April 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees and medical necessity totaling \$6,438.00 outlined above as follows:

- In accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Order is applicable to dates of service 3-1-04 through 4-19-04 as outlined above in this dispute.

This Order is hereby issued this 4th day of April 2005.

Margaret Ojeda, Manager
Medical Necessity Team
Medical Dispute Resolution
Medical Review Division

MO/da

Enclosure: IRO decision

March 29, 2005

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-05-1560-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: IRO 5055

Dear Ms. ____:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant

medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic, and is currently on the TWCC Approved Doctor List.

Sincerely,

Gilbert Prud'homme
General Counsel

GP:thh

REVIEWER'S REPORT

M5-05-1560-01

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

- Letter of medical necessity
- Office notes 06/04/03 – 05/20/04
- Physical therapy notes 03/01/03 – 03/12/03
- FCE 02/06/04 – 04/19/04
- Radiology report 08/12/03

Information provided by Respondent:

- Designated doctor review

Information provided by Orthopedic Surgeon:

- Office notes 09/10/03 – 07/01/04
- Operative report 10/13/03

Clinical History:

This male claimant underwent MRI, shoulder surgery, post-operative rehabilitation, a work hardening program and FCEs after sustaining injury at work on ____ when he helped lift a 600 pound tire.

Disputed Services:

FCE on 04/19/04

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the FCE on 04/19/04 was medically necessary in this case.

Rationale:

After the completion of an authorized work hardening program, it was both indicated and medically necessary to evaluate the patient's progress and his ability to perform his work duties by the performance of a functional capacity evaluation. In fact, the designated doctor - who carries presumptive weight - felt a subsequent and additional FCE was medically necessary and ordered it on 08/10/04.